



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 5, 1998

Ms. Tamara Armstrong
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR98-0353

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112645.

The Travis County Sheriff's Office (the "Sheriff") received a request for various information concerning Mr. David Lee Powell. The requestor is Mr. Powell's attorney. You state that the Sheriff will release much of the requested information. You assert that portions of the requested information are excepted from required public disclosure based on sections 552.101, 552.108 and 552.130 of the Government Code.

Section 552.101 excepts from disclosure information that is confidential by law, either constitutional, statutory or by judicial decision. We agree that the information in exhibits A and D is excepted from public disclosure under section 552.101.¹ See *United States Dep't of Justice v. Reporters Comm. For Freedom of the Press*, 489 U.S. 749 (1989); *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 at 179 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Gov't Code §§ 411.084, .085.

You assert that sections 552.101 and 552.108 except from public disclosure the names on Mr. Powell's correspondence and visitor lists. Prior decisions of this office have determined that the identity of persons who communicate with an inmate, both by visitation or written correspondence, are excepted from disclosure under section 552.101 to protect the First Amendment right of free expression of the inmate and the outside communicant. See Open Records Decision Nos. 430 (1985), 428 (1985), 185 (1978). Thus, the Sheriff must withhold these names from disclosure based on section 552.101.²

¹In light of our conclusion, we need not address the applicability of section 571.015 of the Health and Safety Code to exhibit D.

²We do not believe the requestor has a special right of access to the information pursuant to section 552.023 of the Government Code. Section 552.023 prevents a governmental body from asserting an

You next assert that section 552.101 applies to certain information based on the privacy rights of two inmates other than Mr. Powell. Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See Industrial Found. of the S. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have reviewed the information in exhibit C. We conclude that the Sheriff must withhold the names of the victim-inmates based on section 552.101 in conjunction with the common-law right to privacy.

Finally, section 552.130 of the Government Code reads in pertinent part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;

...

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Section 730.007 of the Transportation Code permits disclosure of driver's license numbers in certain situations not applicable here. Thus, we conclude that the Sheriff must withhold the driver's license numbers based on section 552.130.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

individual's privacy as a reason for withholding records from that individual. In this case, the information protects interests other than Mr. Powell's privacy.

KHH/rho

Ref.: ID# 112645

Enclosures: Submitted documents

cc: Ms. Hilary Sheard
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(w/o enclosures)